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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,161	11/17/2003	Susanne Wyrembek	245127US41XCONT	9458
22850	7590	08/31/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			HOLZEN, STEPHEN A	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/713,161

Applicant(s)

WYREMBEK ET AL.

Examiner

Stephen A. Holzen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 11-17 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 11-17, 22 and 26 is/are rejected.
- 7) ☒ Claim(s) 21, 23-25, 27-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/17/205 have been fully considered but they are not persuasive.
2. While the examiner agrees with the applicant's assertion that the pivotable and fixed members do not extend in the same horizontal direction from the non-illustrated hinge, the examiner does not agree that the pivotable and fixed members do not extend in the same vertical directions. Since Burnelli does not illustrate a hinge, please see US Pat 1,914,000 to view a convention hinge for a rudder. Tower illustrates a hinge, not specifically numbered, that connects the pivotable and fixed members. Both the pivotable and fixed members extend in the same vertically upward and downward directions.
3. The applicant's amendments and arguments with respect to Daude are persuasive. This rejection has been withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 11-17, 22, and 26 rejected under 35 U.S.C. 103(a) as being unpatentable over Burnelli in view of Tower (1,914,000).

Burnelli discloses a main body connected to wing having a control member with a fixed and pivotable member configured to increase a drag of the aircraft without substantially changing a lift of the aircraft, further comprising a hinge between the fixed member and the pivotable member, the hinge member configured to pivot the pivotable member, wherein a portion of the pivotable member is configured to be disposed adjacent to and within a projection of the fixed member (see Figure 1, right wingtip, #14 fits within a small recess of part #13), wherein the control member is delta shaped, wherein the pivotable member is configured to be pivoted about an axis perpendicular to a major plane of the wing, wherein the pivotable member is configured to be one of inwardly and outwardly pivotable, wherein the pivotable member is configured to be both inwardly and outwardly pivotable (see Figures 1 and 3). Burnelli discloses a pivotable member having an outside surface (rear-most point of th #14) and an inner surface (for most portion of #14). Burnelli does not the pivotably member and fixed member extending from the hinge member in a same direction when said control member is in a non-deployed configuration.

Tower however teaches that it is known to have a pivotable member and a fixed member extend from a hinge member in the same vertical direction when said control member is in a non-deployed configuration (see Figure 5, hinge is not specifically numbered). It would have been obvious to include the hinge teachings of Tower into the device of Burnelli for the purpose of increasing the controllability of the craft.

Allowable Subject Matter

6. Claim 21, 23, 24, 25, 27, 28 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TERI PHAM LUU
SUPERVISORY
PRIMARY EXAMINER

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